

DOCKET FILE COPY ORIGINAL

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

SEP - 9 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996

)
)
)
)
)

CC Docket No. 96-128

To: The Commission

REPLY COMMENTS OF
CABLE & WIRELESS, INC.

Rachel J. Rothstein, Esq.
Director, Regulatory & Int'l Affairs
CABLE & WIRELESS, INC.
8219 Leesburg Pike
Vienna, VA 22182
(703) 734-4439

September 9, 1997

No. of Copies rec'd
List ABCDE

024

SUMMARY

Less than a month remains before the Commission's per-call compensation plan originally was scheduled to take effect. In order for carriers to implement per-call compensation, the Commission must promptly establish a single, national default rate for each compensable call. Moreover, in order to provide carriers a fair opportunity to recover the per-call compensation amount in their tariffed charges, the Commission should not start per-call compensation until 30 days after release of its order on remand.

The default rate should be set based upon the PSPs' own costs in originating compensable calls, not based upon surrogates which, like to local coin rate, bear no relationship to PSP costs. Surrogates such as those suggested by the APCC suffer from the same fatal defect as did the Commission's use of local coin rates as a surrogate in that they include significant costs not incurred by PSPs in originating access code and subscriber 800 calls. Compensation based upon these surrogates would be arbitrary and capricious.

CWI recommends that the Commission set compensation at the PSPs' incremental costs of originating such calls. This methodology is more than sufficient to fully and fairly compensate PSPs. Through a combination of the revenues generated through deregulated pricing of local coin calls and revenues from 0+ and 1+ sent-paid calls, plus incremental-cost based compensation for access code and subscriber 800 calls, PSPs are ensured fair compensation for each and every call originated from their payphones. In setting this compensation amount, the PSPs' cost data cannot be relied upon without substantial reductions to remove inflated and irrelevant costs that erroneously have been included.

Finally, the Commission must clarify that phones transmit the "07" ANI information code are not eligible to receive compensation. This code not only is not unique

to payphones, but appears exceeding unlikely to include any payphone calls. Accordingly, IXC's should not be required to screen for "07" ANI codes when tracking and paying compensation.

TABLE OF CONTENTS

	<u>Page</u>
I. THE COMMISSION MUST ACT IMMEDIATELY TO ESTABLISH A REASONABLE PER-CALL COMPENSATION AMOUNT	1
A. Purported "Surrogates" for PSP Costs Should be Rejected	2
B. Compensation That is Based on Incremental Costs Will Fully and Fairly Compensate PSPs.	5
C. The PSPs' Cost Figures are Inflated and Unreliable	8
D. Default Compensation Should be a Single National Rate, Rather than a Rate that Varies by Payphone and Over Time	12
II. THE COMMISSION SHOULD ABANDON ATTEMPTS TO FIX ITS FAULTY INTERIM COMPENSATION PLAN	13
III. THE COMMISSION SHOULD CLARIFY THAT PAYPHONES THAT DO NOT TRANSMIT PAYPHONE-SPECIFIC CODING DIGITS ARE NOT ELIGIBLE FOR COMPENSATION	14

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Pay Telephone)	CC Docket No. 96-128
Reclassification and Compensation Provisions)	
of the Telecommunications Act of 1996)	

To: The Commission

**REPLY COMMENTS OF
CABLE & WIRELESS, INC.**

Cable & Wireless, Inc. ("CWI"), through its undersigned counsel, respectfully submits the following reply to the initial comments filed in the remand phase of this proceeding.

**I. THE COMMISSION MUST ACT IMMEDIATELY TO ESTABLISH A
REASONABLE PER-CALL COMPENSATION AMOUNT**

Less than a month remains before the Commission's per-call compensation plan originally was scheduled to take effect. Although CWI and other carriers have expended considerable resources to implement per-call tracking capabilities by this deadline, per-call compensation cannot go forward unless the Commission promptly establishes a single, national default per-call compensation amount. As explained below, the default rate should be set based upon the PSPs' own costs in originating compensable calls, not based upon surrogates which, like to local coin rate, bear no relationship to PSP costs. CWI believes that a default rate based upon the PSPs' incremental costs of originating such calls is more than sufficient to fully and fairly compensate PSPs, but in any event, the PSPs' cost data

cannot be relied upon without substantial reductions to remove inflated and irrelevant costs that erroneously have been included.

Moreover, CWI has experienced resistance from state commissions in implementing a per-call payphone use charge in its tariffs, primarily due to several states' view that no compensation currently is due. Accordingly, in order to provide CWI and other carriers a fair opportunity to recover the per-call compensation amount in their tariffed charges, the Commission should not start per-call compensation until 30 days after release of its order on remand.

A. Purported "Surrogates" for PSP Costs Should be Rejected

Failing to heed the D.C. Circuit's decision, PSPs continue to argue that the Commission can set compensation without regard to the PSP's costs in originating access code and subscriber 800 calls. The Commission should reject this proposition as inconsistent with Section 276 and the D.C. Circuit's decision in *Illinois Public Telecomm Ass'n*.

For example, APCC argues that the Commission should look to three other "surrogates" (in addition to the local coin rate) in order to establish a zone of reasonableness for the compensation amount.^{1/} According to APCC, examination of these "surrogates" -- OSP 0+ commission levels, 0- transfer rates, and PSP surcharges for 1+ sent-paid traffic -- yields the conclusion that the \$.35 default rate was in the right range after all.^{2/} However, APCC's approach is no better than using local coin rates as a surrogate because, like the

^{1/} APCC Comments at 7.

^{2/} *Id.*

local coin rate, each of APCC's proposed surrogates involve dissimilar costs compared to access code and subscriber 800 calls.

0+ Commissions: The amount that an OSP will pay to be the 0+ carrier at a payphone is not a surrogate for PSP origination costs. OSP commissions are marketing expenses.^{3/} They supplement and/or replace the expenses OSPs would incur in advertising to induce customers to use their services. This is because the OSP, as the default 0+ carrier, gains the ability to serve customers that have not previously established a relationship with the carrier. The default position thus supplements (and sometimes substitutes for) the OSPs' efforts to attract new customers, such as print or media advertising.^{4/} By contrast, carriers receiving access code or subscriber 800 calls must incur advertising expenses to induce callers to dial an access code (and a 800 customer must expend resources to publicize its toll-free number). Therefore, 0+ commissions do not bear any relationship to a PSP's cost of originating compensable calls, and compensation based upon this surrogate will overcompensate PSPs.

Furthermore, use of 0+ commission levels as a surrogate for PSP costs would result in double recovery, if APCC were correct in its theory that PSPs previously were forced to "subsidize" all costs through 0+ revenues.^{5/} If PSPs treated 0+ commissions this way, then *no* additional revenues would be necessary for PSPs to recover their costs, for the 0+ commissions the PSPs demanded already provided sufficient recovery. Use of these

^{3/} *National Telephone Services, Inc.*, 8 FCC Rcd 654, 655 (1993).

^{4/} Indeed, as the Commission noted, the placard on the telephone can itself be advertising of the OSP's services. *R&O* at ¶ 69.

^{5/} See APCC July 1, 1996 Comments at 7-9.

commission levels as a surrogate for the access code and subscriber 800 compensation rate would compensate PSPs twice, once through 0+ commissions and once through FCC-prescribed compensation.

0- transfer rates: The 0- transfer rate is a fee LECs charge OSPs when the LEC operator must first handle a call and ascertain the customer's preferred long distance carrier. Such calls require live operator intervention by the LEC and also reflect costs associated with compiling and maintaining a database of carriers capable of receiving a 0- transfer. None of these costs are incurred in the origination of either an access code or subscriber 800 call. Therefore, compensation based on 0- transfer rates also would overcompensate PSPs.

Sent-paid surcharges: The final surrogate APCC suggests is the additional set-up charge (over and above the per-minute rate) assessed when a caller pays for a long distance call by placing coins in the telephone. However, the costs associated with these calls in no way even approximate a PSP's costs for originating an access code or subscriber 800 call. The sent-paid capability of a payphone requires a number of significant and additional costs (over and above transmission costs) to rate the calls in real time, to monitor call duration, and to detect whether (and how many) coins have been deposited. Often, these functions require additional, frequently expensive, signalling and trunking arrangements. None of these costs are incurred by the PSP in originating access code or subscriber 800 calls; it is the carrier that receives the call who must rate and record calls for billing purposes.

In summary, none of the alternative bases that APCC suggests may be used as a surrogate for PSP costs. Each alternative involves costs that are unrelated to, and not incurred in, originating access code or subscriber 800 calls. The Commission simply cannot accomplish indirectly through surrogates what Section 276 and the D.C. Circuit's decision

require it to do: examine the PSPs' costs in originating compensable calls, and set a fair compensation amount based upon those costs.

B. Compensation That is Based on Incremental Costs Will Fully and Fairly Compensate PSPs.

In its initial comments, CWI reiterated its support for compensation that is based upon the PSP's incremental costs in originating access code and subscriber 800 calls. The record confirms that such an approach is fully compensatory to PSPs and is "fair" to all parties.

Initially, CWI does not propose that incremental costs be used to determine compensation for *all* calls originating from payphones. The Commission correctly concluded that such a standard, if applied to all payphone calls, might undercompensate PSPs on a total return basis.^{6/} However, PSPs are not limited to recovery of their incremental costs for all calls, and in fact will receive substantially more than that for approximately 80 percent of their calls. The Commission's rules allow PSPs full flexibility in establishing local coin call rates, and flexibility (subject to traditional regulatory oversight) in negotiating 1+ call rates and 0+ commissions. The only call types for which incremental costs would be used, then, are access code and subscriber 800 calls. By permitting any cost recovery standard that the market will bear for most calls, the statutory objective of ensuring fair compensation for all calls (collectively) is met. Incremental cost-based compensation for the remaining calls ensures that each call earns at least a fair amount of compensation for the PSP.

^{6/} R&O at ¶ 68.

In fact, the PSPs' own data show that they easily can recover most, and in some cases all, of their claimed total costs *solely* from local calls and 1+ coin calls.^{7/} Using APCC's report that the average payphone generates 511 coin calls per month, and making the "reasonable assumption" (according to APCC) that 10 percent of these calls are 1+ sent-paid calls, a PSP can expect to receive \$161.00 per month from local calls (at the FCC's presumed market local coin rate of \$.35/call) (460 x \$.35)^{8/} and at least \$71.40 per month in 1+ sent-paid surcharges (51 x \$1.40).^{9/} Thus, from these two sources alone, a PSP can expect at least \$232.40 per month in revenues. This compares favorably to the costs, exclusive of 0+ commission payments, claimed by APCC (\$197 per month),^{10/} CCI (\$224.43 per month)^{11/} and Peoples Telephone Company (\$238.41).^{12/} Moreover, this analysis does not take into account the substantial over-statement of PSP costs which are explained in the next section. When these inflated costs are adjusted for, it becomes even

^{7/} This is not surprising, given that several PSPs have confirmed that their decision to install a public payphone is driven by the number of local traffic that will be generated from the phone. See Peoples Telephone Comments at 6 ("Peoples will not install payphones in locations that do not generate substantial numbers of coin calls"); Sprint Comments at 4 (quoting an independent PSP to the same effect).

^{8/} The PSP can generate even more revenue if local coin calls are priced by the minute, rather than flat rated, or if calls of longer durations require the deposit of additional coins. Both pricing decisions are permitted by the Commission's decision to deregulate the local coin rate.

^{9/} APCC Comments at 10 (average 1+ surcharge is \$1.40 per call). Again, this estimate is conservative, for it assumes that a PSP does not generate any profit from the per-minute rate for sent-paid calls.

^{10/} APCC Comments at Attachment 3.

^{11/} CCI Comments at 9-10 (direct costs per call multiplied by 720 calls per payphone reported).

^{12/} Peoples Comments at 10.

more clear that a PSP is fully capable of recovering all of its fixed costs from local and 1 + coin calls.

Several PSPs resurrect the claim that the Commission must set a high compensation rate in order to prevent the widespread withdrawal of payphones.^{13/} This argument lacks merit for three reasons.

First, it is illogical to assume that payphones which *already* have been installed under a system where no compensation is paid for the calls in question would be removed as a result of a system which increases the PSPs' revenues (regardless of how large or small this increase is). Indeed, the record demonstrates that PSPs decide whether to install a payphone (and presumably, therefore, whether to keep it in service) *without regard to the number of access code or subscriber 800 calls it generates*.^{14/} The ability of PSPs to price local coin calls on a deregulated basis will only increase their ability to maintain payphones in service, regardless of the access code or subscriber 800 compensation rates.

Second, to the extent that the RBOCs' claims are based upon a belief that payphone subsidies supported these payphones, it does not follow that replacement of these subsidies will lead to the removal of payphones. Even with payphone costs included in LEC access charges, LECs had a mix of high volume and low volume payphones in their installed base of phones. Some of those payphones contributed more towards the LEC's overall profitability in payphone operations and some, presumably, were supported by profits made on high volume phones. Under the Commission's new compensation rules, LEC PSPs will

^{13/} See, e.g. RBOC/GTE/SNET Coalition Comments at 14.

^{14/} See, e.g., Peoples Comments at 6 ("Peoples will not install payphones in locations that do not generate substantial numbers of coin calls").

be in a similar situation after the subsidies are removed; some of their payphones will be more profitable than others. To the extent that some payphones are not profitable, the LECs can decide whether other benefits to it of installing the phone are sufficient for it to support the phone with profits from other payphones.^{15/}

Finally, to the extent that some payphones might be removed from service *and* such payphones "are provided in the interest of public health, safety and welfare" (as opposed to the removal of payphones for which there never was a valid economic reason to install it), the Commission has the power to protect such phones through its policies and procedures for "public interest" telephones.^{16/} Such public interest phones should be addressed directly, through a narrowly targeted support program, rather than through a broad policy of requiring "high" compensation rates.^{17/}

C. The PSPs' Cost Figures are Inflated and Unreliable

Not unexpectedly, PSPs have submitted cost data purporting to demonstrate that their actual costs are well in excess of even the \$.35 local coin rate the FCC presumed would predominate. The PSPs reach these large cost figures, however, by including items that are

^{15/} For example, many RFPs by large aggregators, such as airports, convention centers or hotels, mandate that the PSP install certain numbers of payphones in certain locations, some of which may not generate significant call volumes. LECs can continue to decide whether the benefit of the overall contract justifies installation of these "unprofitable" payphones also.

^{16/} 47 U.S.C. § 276(b)(2).

^{17/} Even assuming that support is necessary for a public interest payphone, there is no justification for the PSPs' proposal that only access code and subscriber 800 callers contribute toward this support.

not related to access code or subscriber 800 calls. The PSPs' cost estimates must be adjusted downward to remove these inflated and irrelevant costs.

Payphone Line Charges: The only arguably relevant costs associate with a payphone line are the costs of the basic payphone line. However, some PSPs have included other charges not related to the basic payphone line. For example, Peoples Telephone claims a cost of \$59.54 per month in "line charges," but its 10-K report to the SEC (upon which its figures purportedly are based) reveals that this category includes not only local payphone line charges, but also "long distance transmission charges," "network costs," and "billing, collection and validation costs."^{18/} All of these costs are incurred as a result of Peoples' decision to self-provide long distance and operator services from some of its payphone locations.^{19/} The charges, therefore, should not be included in the compensation amount.

Premises Owner Commissions: This item, often the single largest "cost" claimed by PSPs, should be excluded entirely from compensation for access code or subscriber 800 calls. These commissions typically have been paid solely on 0+, 1+ and local calls, not on other calls, and as such cannot be considered costs of originating access code or subscriber 800 calls.^{20/} In addition, there is no evidence that revenues from these sources -- 0+, 1+ and local coin -- do not already recover the entire expense reported by the PSPs.^{21/}

^{18/} Peoples Telephone Company, 10-K at 28 (3/31/97) (excerpts attached as Exhibit 1).

^{19/} *Id.* at 27 ("The Company uses its private label operator service or a third-party operator service provider based on which service the Company believes nets its highest gross margin from the call").

^{20/} *See, e.g.,* CCI Comments at 12 (noting that many of its current contracts do not provide for commissions on access code or subscriber 800 revenues).

^{21/} Given that commissions typically are paid as a percentage of revenues, it is
(continued...)

Moreover, the FCC cannot include costs such as these without first making a determination that the level of commissions PSPs pay are just and reasonable. Unless the Commission is prepared to conduct a rate hearing to determine what a "reasonable" commission level is, it has no rational basis for concluding that recovery of premise owner commissions through the default compensation rate is fair within the meaning of Section 276. Therefore, the Commission should exclude commission expenses from the cost calculation.

Field Service/Coin Collection: It is undisputed that it is more expensive for a PSP to service and maintain a coin phone than a coinless phone. This is because coin phones require more frequent service visits to collect the monies deposited and involve additional equipment that often breaks and/or is vandalized. The PSPs' cost figures typically include all field service costs, and therefore are inflated because coin collection costs are included. According to one PSP, coin costs are 50 percent or more of total field service costs.^{22/} Thus, the total field service costs reported by Peoples and CCI should be reduced by at least 50 percent (from the \$41.66 and \$35.70 claimed, respectively). This yields a field collection cost of between \$17.85 and \$20.83 per month. In the alternative, these costs, exclusive of the coin collection costs, can be estimated using AT&T's experience with its coinless phones, which average \$25.10 in maintenance, warehousing/parts, and field technician support.^{23/}

^{21/}(...continued)

reasonable to assume that the revenues generated from the commissionable calls *already* have been increased to cover these expenses. Conspicuously absent from the PSPs' submissions, however, are data showing their revenues from these 0+ and 1+ calls.

^{22/} Telaleasing Enterprises, Inc. Comments at 8.

^{23/} AT&T Comments at 11.

Billing Costs/Bad Debt: Peoples inexplicably includes a line item for "billing costs/ bad debts." This cost, like the excessive line charges Peoples included, appears to relate to Peoples' operation as a long distance and operator service provider, not as a payphone provider. Accordingly, the \$4.02 per month claimed by Peoples for "billing costs/bad debt" should be excluded.

Further, some PSPs include as a "cost" their expenditures in collecting compensation under the FCC's compensation rules. This should not be included as part of the calculation of the default compensation rate because it is not a cost of *originating* access code or subscriber 800 calls. Carriers receiving compensable calls already have had the costs of tracking and billing for compensation imposed upon them, without any compensation from the PSP for doing so. It is neither reasonable nor fair to impose the PSPs' collection expenses upon IXC's also.

Depreciation and Interest: Some PSPs appear to have grossly inflated their equipment costs in the data submitted to the FCC. For example, Peoples Telephone claims monthly depreciation costs (amortized over a 10 year period) of \$64.33 per payphone.^{24/} This computes to an average undepreciated cost of \$7,719.60 per payphone, significantly higher than any other record evidence relating to the cost of installing a payphone. Viewed another way, Peoples Telephone reports in its comments a net payphone asset base of \$124,433,108.^{25/} Using its installed payphone base of 38,500, this computes to an average asset value of \$3,232 per payphone. Given the substantial evidence elsewhere in the record

^{24/} Peoples Comments at 10.

^{25/} *Id.* at 10 n.***.

that new payphones cost between \$200 and \$1,000, and can be installed for \$500 to \$800,^{26/} Peoples' estimates must include other costs not related to the payphone itself.

For these reasons, the PSPs' cost estimates must be reduced substantially before they can form the basis for establishing per-call compensation.

D. Default Compensation Should be a Single National Rate, Rather than a Rate that Varies by Payphone and Over Time

CWI emphasized in its initial comments that a compensation rate which varies by payphone or over time is nearly impossible to administer. Several carriers subject to a tracking obligation agree with CWI in this assessment. As AT&T noted, a "floating" compensation rate forces a compensating carrier to rely on the PSP as the only means of verifying the compensation rate, a result fraught with the potential for fraud.^{27/} Moreover, a floating rate would substantially increase the already high costs to carrier-payors of administering per-call compensation, perhaps as much as 300 percent above the cost of administering a uniform compensation rate.^{28/}

Given the limited utility of blocking for carriers such as CWI,^{29/} it is imperative that the Commission not create a situation where carriers are forced to block calls due solely to a lack of information about the PSP and the rate charged. No carrier wants to block calls,

^{26/} See, e.g., AT&T Comments, Robinson Aff. at 3.

^{27/} AT&T Comments at 16.

^{28/} *Id.* at 18; see also Sprint Comments at 6.

^{29/} CWI Comments at 10-11.

and particularly does not want to do so unnecessarily. Therefore, CWI urges the Commission to establish a uniform default compensation rate as soon as possible.

II. THE COMMISSION SHOULD ABANDON ATTEMPTS TO FIX ITS FAULTY INTERIM COMPENSATION PLAN

The Commission's interim compensation plan is so faulty that it is not in the public interest to attempt to re-form an interim plan that meets the Court's requirements. As CWI and other commenters point out, in order to properly establish another interim plan, the Commission must solve three difficult and vexing problems.

First, it must determine the amount of such compensation according to a cost-based method. This problem alone has engendered considerable debate and produced a sizable record. In the short time the Commission has available to it, the Commission should focus its attention on solving this problem, and should not become distracted by side issues such as a way to re-establish an interim compensation plan. In particular, if the Commission can promptly establish a per-call compensation plan, there is no need for developing an interim plan based on per-phone compensation.

Second, the Commission must include the proper universe of carrier-payors in any interim compensation plan. While the local exchange carriers appear to be conceding that they have an obligation to participate in any such plan,^{30/} whether and on what basis other carriers may be exempted is less than clear.

Third, after the Commission determines the right entities to pay compensation, it still must determine an allocation method which has a proper nexus to the number of access

^{30/} RBOC/GTE/SNET Coalition Comments at 34-35.

code and subscriber 800 calls. Even with additional information such as NECA reports or the new Universal Service Worksheet, allocating a compensation obligation among the carrier-pool will be a difficult process. Whatever allocation method is adopted will almost certainly subject some carriers to payment obligations that are too high, and others to obligations that are too low. This, in turn, likely will subject the FCC to the same type of criticism that the Court found with the prior interim scheme: There is no evidence that the allocation method reasonably approximates the carrier's number of access code and subscriber 800 calls. Given these inevitable and seemingly insoluble problems, the Commission would be ill-advised if it proceeded with adopting a new interim compensation plan. Instead, as CWI emphasized above, the Commission should focus its efforts on establishing a per-call compensation amount that is reasonable and cost-based, so that all parties may proceed with the permanent plan the Commission envisioned.

III. THE COMMISSION SHOULD CLARIFY THAT PAYPHONES THAT DO NOT TRANSMIT PAYPHONE-SPECIFIC CODING DIGITS ARE NOT ELIGIBLE FOR COMPENSATION

It has recently come to CWI's attention that some LECs expect IXC's to track compensable calls based in part on the transmission of an "07" information code associated with the payphone ANI. This solution is unworkable and contrary to the Commission's express conclusions in the *Reconsideration Order* in this docket. In the *Reconsideration Order*, the Commission stated that:

Once per-call compensation becomes effective, we clarify that, to be eligible for such compensation, payphones will be required to transmit specific payphone coding digits as part of their ANI, which will assist in identifying them to compensation payors. Each payphone must transmit

coding digits that specifically identify it as a payphone, not merely as a restricted line.^{31/}

The Commission must clarify that the "07" code does not meet these requirements. The "07" code merely identifies a restricted line, which could be a payphone, or it could be a telephone in a hotel or hospital room. CWI's experience indicates that the "07" code not only is not limited to payphones, but in fact is almost exclusively used by non-payphones. CWI recently examined one month's worth of data in which any of the payphone information digits was passed, including the "07" code. Of the 5.5 million call records in which one of these codes was passed, the majority of these, 3.5 million, were "07" code calls. However, when the ANIs transmitting these data were compared to LEC-provided lists of independent payphone ANIs, *not one single match was found*. There is no reason to subject carriers to the enormous expense of collecting data on "07" code calls, when few, if any, are likely to be payphones. Instead, the Commission should clarify that phones that transmit the "07" code are not eligible for compensation. If payphones currently using the "07" code wish to

^{31/} *Reconsideration Order*, ¶ 64.

to receive compensation, it must transmit one of the other coding digits which are specific to payphone calls.

Respectfully submitted,

CABLE & WIRELESS, INC.

By: Rachel J. Rothstein
Rachel J. Rothstein, Esq.
Director, Regulatory & Int'l Affairs
CABLE & WIRELESS, INC.
8219 Leesburg Pike
Vienna, VA 22182
(703) 734-4439

September 9, 1997

Its Attorney

-----BEGIN PRIVACY-ENHANCED MESSAGE-----

Proc-Type: 2001,MIC-CLEAR

Originator-Name: webmaster@www.sec.gov

Originator-Key-Asymmetric:

MFgwCgYEVQgBAQICAf8DSgAwRwJAW2sNKK9AVtBzYZmr6aGjlWyK3XmZv3dTINen
TWSM7vrzLADbmYQaionwg5sDW3P6oaM5D3tdezXMm7z1T+B+twIDAQAB

MIC-Info: RSA-MD5,RSA,

DoYLy/xlDdG4YFWwjMWcrxZyBt1nDjXMsFx6XVII6eOn9uL5PZ3DjhS2IRty+agi
aoiuoI9NkPtI4fN4V7CBuQ==

Peoples 10-K

FY ended 12/31/96

< SEC-DOCUMENT > 0000819694-97-000004.txt : 19970401

< SEC-HEADER > 0000819694-97-000004.hdr.sgml : 19970401

ACCESSION NUMBER: 0000819694-97-000004

CONFORMED SUBMISSION TYPE: 10-K405

PUBLIC DOCUMENT COUNT: 10

CONFORMED PERIOD OF REPORT: 19961231

FILED AS OF DATE: 19970331

SROS: AMEX

FILER:

COMPANY DATA:

COMPANY CONFORMED NAME:PEOPLES TELEPHONE

COMPANY INC

CENTRAL INDEX KEY:0000819694

STANDARD INDUSTRIAL CLASSIFICATION:COMMUNICATION

SERVICES, NEC [4899]

IRS NUMBER: 132626435

STATE OF INCORPORATION:NY

FISCAL YEAR END: 1231

FILING VALUES:

FORM TYPE: 10-K405

SEC ACT: 1934 Act

SEC FILE NUMBER: 001-12443

FILM NUMBER: 97571637

BUSINESS ADDRESS:

STREET 1: 2300 NORTHWEST 89TH PL

CITY: MIAMI

STATE: FL

ZIP: 33172

BUSINESS PHONE: 3055939667

MAIL ADDRESS:

STREET 1: 2300 NORTHWEST 89TH PLACE

CITY: MIAMI

STATE: FL

ZIP: 33172

</SEC-HEADER>
<DOCUMENT>
<TYPE> 10-K405
<SEQUENCE> 1
<DESCRIPTION> PEOPLES TELEPHONE COMPANY, INC.
<TEXT>

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES
EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 1996 Commission File Number: 0-16479

PEOPLES TELEPHONE COMPANY, INC.
(Exact Name of registrant as specified in its charter)

NEW YORK 13-2626435
(State or other jurisdiction of (I.R.S. Employer Identification No.)
incorporation or organization)

2300 NORTHWEST 89TH PLACE, MIAMI, FLORIDA 33172
(Address of principal executive offices) (Zip Code)

Registrant's telephone number: (305) 593-9667

Securities registered pursuant to Section 12(g) of the Act:

Name of each exchange
Title of each class on which registered

Common Stock
Par Value \$.01 per share American Stock Exchange, Inc.

Securities registered pursuant to Section 12(b) of the Act:
(Title of class)
None

Indicate by check mark whether the registrant has (1) filed all reports required
to be filed by Section 13 or 15(d) the Securities Exchange Act of 1934 during

the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. X Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. []

As of March 21, 1997, the aggregate market value of the voting stock held by non-affiliates of the registrant was approximately \$57,693,562. As of March 21, 1997, there were 16,194,684 shares of the registrant's Common stock outstanding.

Documents incorporated by reference: None

<PAGE>

Part I

Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the "Reform Act"), Peoples Telephone Company, Inc ("Peoples" or the "Company") is hereby providing cautionary statements identifying important factors that could cause the Company's actual results to differ materially from those projected in forward-looking statements (as such term is defined in the Reform Act) made by or on behalf of the Company herein or orally, whether in presentation, in response to questions or otherwise. Any statements that express, or involve discussions as to expectation, beliefs, plans, targets, objectives, assumptions or future events or performance (often, but not always, through the use of words or phrases such as "will result," "are expected to," "will continue," "is anticipated," "estimated," "should", "projection" and "outlook") are not historical facts and may be forward-looking and, accordingly, such statements involve estimates, assumptions, and uncertainties which could cause actual results to differ materially from those expressed in the forward-looking statements. Such uncertainties include, among others, the following: (i) the impact of competition, especially in a deregulated environment; (ii) uncertainties with respect to the implementation and effect of the Telecom Act (as defined hereafter); (iii) the ongoing ability of the Company to deploy its public pay telephones in favorable locations; (iv) the Company's ability to continue to implement operational improvements; and (v) other factors which are described in further detail in the Company's filings with the Securities and Exchange Commission.

The Company cautions that the factors described above could cause actual

dial-around payment mechanisms are subject to modification on a company specific basis under individual contractual arrangements with the carrier(s), such as the Company's current operator service agreement with AT&T, as well as under prospective FCC rulings and further implementation of the Telecom Act.

FCC is the Federal Communications Commission, which regulates the interstate provision of telecommunications.

Interexchange carrier ("IXC") is a telecommunications provider of transmission services between exchanges, typically referred to as long-distance or toll telephone service.

Local access and transport area ("LATA") is a geographic area established for the administration of telephone service to differentiate between local service versus long distance service.

InterLATA calls are calls between LATAs.

IntraLATA calls are calls originated and terminated in the same LATA.

LEC is a local exchange carrier, which is a company providing local telephone services.

Non-coin calls are calling card, credit card, collect and third-party billed calls.

Operator service provider is a company providing automatic operator service related to long distance calls.

Property Owners or location owners are the owners or operators of locations, such as convenience stores, service stations, gas stations, hospitals, hotels, shopping centers, truck stops and airports, where pay telephones are installed; and (ii) correctional facilities at which pay telephones are located.

Public Switched Network is the traditional domestic public pay telephone network, including local, intraLATA and interLATA facilities used to carry, switch and connect telephone calls between the calling and called parties.

<PAGE>

RBOCs are the Regional Bell Operating Companies, which were formed as a result of the stipulated break-up of the Bell System under the modification of final judgement ("MFJ") entered in U.S. v. AT&T.